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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/611,375	07/01/2003	Tommy E. White	GP-302713	4945

7590 07/19/2004

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EXAMINER

ENGLE, PATRICIA LYNN

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/611,375

Applicant(s)

WHITE ET AL.

Examiner

Patricia L Engle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 19-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/13/03</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 19-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on May 25, 2004.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 5, 6 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore et al. (US Patent 5,934,745).

Regarding claim 1, Moore et al. disclose a rear and side panel assembly for a vehicle comprising a one-piece inner body panel member (14) mated with a one-piece outer body panel member (12), said body panel members cooperating to at least partially define wheel well openings (52,40) for opposing sides (front and back) of the vehicle.

Regarding claim 2, Moore et al. disclose the rear and side panel assembly of claim 1, wherein the inner body panel member (14) is formed from a first rigid sheet (14) and the outer body panel member (12) is formed from a second rigid sheet (14).

Regarding claim 5, Moore et al. disclose the rear and side panel assembly of claim 1, wherein the inner body panel member and the outer body panel member define holes for at least

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one of trunk latches, wiring (inherent to a vehicle with lighting components, such as taillights) and trim components.

Regarding claim 6, Moore et al. disclose the rear and side panel assembly of claim 1, wherein the inner body panel member (12) is characterized by formations (81) configured to provide structural rigidity.

Regarding claim 14, Moore et al. disclose the rear and side panel assembly of claim 1, wherein the inner body panel member (14) has an outer face (Fig. 2) and the inner body panel member (14) and the outer body panel member (12) are sufficiently contiguous and coextensive with each other such that the outer body panel member (12) substantially covers the outer face of the inner body panel member (Fig. 1).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 3 and 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al.

Regarding claims 3 and 13, Moore et al. disclose the rear and side panel assembly of claim 2. Moore et al. do not disclose that the inner and outer panels are aluminum. However, Moore et al. does disclose that the object is to have a lightweight vehicle with a low number of parts (column 1, lines 25-29). Aluminum has a low weight and aluminum can be formed to create the same inner and outer panels to have a vehicle with a low number of parts. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the inner and outer panel from aluminum, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. The motivation to use aluminum would have been to make the panels with a high strength and low cost.

Regarding claims 7-12, MPEP 2113 Product-by-Process Claims states that "If the product in the product-by-process claim is that same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made by a different process." The rear and side panel assembly is anticipated by Moore et al. as modified. The process by which the rear and side panel assembly is made is not a patentable distinction.

7. Claims 1, 4, 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heim et al. (US Patent 6,102,470) in view of Moore et al.

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Heim et al. disclose a rear and side panel assembly for a vehicle wherein the body panel members cooperating to at least partially define wheel well openings (Fig. 1) for opposing sides (left and right) of the vehicle which cooperates with a trunk lid (3) and in which the modular portion includes a rear panel portion and side panel portions extending from the rear panel portions, and wherein each of the side panel portions define an edge that is configured to complement and further define a wheel well opening (Fig. 1) on a vehicle, and wherein each of the side panel portions is configured to extend frontward such that it is mountable to a body lock pillar (Fig. 4) on the vehicle.

Heim et al. do not disclose that the rear and side panel assembly is made from an inner panel and an outer panel.

Moore et al. disclose a rear and side panel assembly which is made of an inner panel and an outer panel.

Moore et al. and Heim et al. are analogous art because they are from the same field of endeavor, i.e., vehicles made with modular components.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to make the rear and side body panel from an inner body panel and an outer body panel which are joined together.

The motivation would have been to make the rear and side body assembly with a low number of parts.

Therefore, it would have been obvious to combine Moore et al. with Heim et al. to obtain the invention as specified in claims 1, 4 and 15-18 .

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*Conclusion*

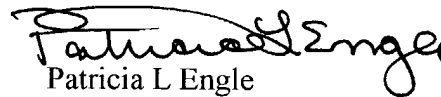
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art discloses other modular vehicles.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L Engle whose telephone number is (703) 306-5777.

The examiner can normally be reached on Monday - Friday from 8:00 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patricia L Engle  
Examiner  
Art Unit 3612

ple  
July 7, 2004